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6 Attorneys for Plaintiff
COM21, Inc.

7 RECEIVED
8 JAN 28 1998
9 RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORIGINAL
FILED

JAN 29 1998

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

10 COM21, Inc.

C - 98

11 Civil No.

20085

RMW
EA

12 Plaintiff,

13 COMPLAINT FOR DECLARATORY
14 JUDGMENT OF PATENT
15 NONINFRINGEMENT AND
16 INVALIDITY

v.

17 Hybrid Networks, Inc.,

Defendant.

18
19 Plaintiffs, by and through their undersigned attorneys, complains and alleges as
20 follows:

21 PARTIES

22 1. Plaintiff COM21, Inc. ("COM21") is a corporation organized under the
23 laws of the state of Delaware and has its principal place of business at 750 Tasman Drive,
24 Milpitas, California, 95035.

25 2. Upon information and belief, Defendant Hybrid Networks, Inc.
26 ("Hybrid") is a corporation organized and existing under the laws of the state of Delaware and
27 has its principal place of business at 10161 Bubb Road, Cupertino, California, 95014.

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COMPLAINT FOR DECLARATORY JUDGMENT OF
PATENT NONINFRINGEMENT AND INVALIDITY

JURISDICTION AND VENUE

3. This lawsuit is an action for a declaratory judgment of patent noninfringement, and patent invalidity. This court has jurisdiction under the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202, and under the laws of the United States concerning patents, 35 U.S.C. §§ 101 et seq.

4. Hybrid and COM21 reside within this judicial district, as provided by 28 U.S.C. § 1391(c). Accordingly, venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b). Venue in this division is appropriate under Civil Local Rule 3-2.

GENERAL ALLEGATIONS

5. This action is for declaratory judgment of invalidity and non-infringement by COM21 of two United States patents: U.S. Patent No. 5,347,304 (hereinafter "the '304 patent"), entitled "REMOTE LINK ADAPTER FOR USE IN TV BROADCAST DATA TRANSMISSION SYSTEM" and U.S. Patent No. 5,586,121 (hereinafter "the '121 patent"), entitled "ASYMMETRIC HYBRID ACCESS SYSTEM AND METHOD." Hybrid claims to own the '304 and '121 patents by assignment. A copy of the '304 and '121 patents are respectively attached as Exhibits A and B hereto.

6. COM21 has not infringed and does not infringe the '304 and '121 patents.

7. An actual and justiciable case or controversy exists with respect to the validity and infringement of the '304 and '121 patents insofar as Hybrid has asserted that COM21's products, including the ComPORT™ cable modem and ComUNITY™ access system, infringe the '304 and '121 patents.

8. The claims of the '304 patent are invalid under 35 U.S.C. § 101, et seq.

The claims of the '121 patent are invalid under 35 U.S.C. § 101, et seq.

PRAYER FOR RELIEF

WHEREFORE, COM21 prays that the Court:

A. Adjudge, declare, and decree that U.S. Patent No. 5,347,304, and each of its claims are invalid;

B. Adjudge, declare, and decree that U.S. Patent No. 5,586,121, and each of its claims are invalid;

C. Adjudge, declare, and decree that COM21 has not infringed and does not infringe, either literally or under the doctrine of equivalents, any valid claim of U.S. Patent No. 5,347,304;

D. Adjudge, declare, and decree that COM21 has not infringed and does not infringe, either literally or under the doctrine of equivalents, any valid claim of U.S. Patent No. 5,586,121;

E. Adjudge, declare, and decree that COM21 has not induced or contributed to the infringement of any valid claim of U.S. Patent No. 5,347,304;

F. Adjudge, declare, and decree that COM21 has not induced or contributed to the infringement of any valid claim of U.S. Patent No. 5,586,121;

G. Enjoin Hybrid, its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of judgment from charging Com21, its suppliers, customers, and users of its products or processes with infringement of U.S. Patent No. 5,347,304 and from threatening to bring suit and from bringing suit against any of them for infringement, contributory infringement or inducing infringement of U.S. Patent No. 5,347,304.

H. Enjoin Hybrid, its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of judgment from charging Com21, its suppliers, customers, and users of its products or processes with infringement of U.S. Patent No. 5,586,121 and from threatening to bring suit

1 and from bringing suit against any of them for infringement, contributory infringement or
2 inducing infringement of U.S. Patent No. 5,586,121.

- 3 I. Award COM21 its reasonable attorney fees in accordance with 35
4 U.S.C. 285;
- 5 J. Award COM21 its reasonable costs of this action; and
- 6 K. Award COM21 such other and further relief as the Court deems just.

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8 Dated: January 28, 1998

BROBECK, PHLEGER & HARRISON LLP

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10 By: 

11 James J. Elacqua
12 Counsel for Plaintiff
13 COM21, Inc.

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Expo A



US005347304A

United States Patent [19]

Moura et al.

[11] Patent Number: 5,347,304
 [45] Date of Patent: Sep. 13, 1994

[54] REMOTE LINK ADAPTER FOR USE IN TV BROADCAST DATA TRANSMISSION SYSTEM

4,926,255 5/1990 Von Kohorn 455/3.1
 4,987,486 1/1991 Johnson et al. 455/4.2
 5,014,125 5/1991 Pocock et al. 455/4.2
 5,093,718 3/1992 Hoarty et al. 358/86
 5,247,347 9/1993 Littler et al. 455/4.2

[75] Inventors: Eduardo J. Moura, San Jose; James C. Long, Sunnyvale, both of Calif.

[73] Assignee: Hybrid Networks, Inc., Cupertino, Calif.

[21] Appl. No.: 98,764

[22] Filed: Jul. 28, 1993

Related U.S. Application Data

[63] Continuation of Ser. No. 757,151, Sep. 10, 1991, abandoned.

[51] Int. Cl. 1/00

[52] U.S. Cl. 348/12; 348/13;

348/17; 455/5.1; 455/6.1

[58] Field of Search 455/4.2, 5.1, 6.1, 6.2,
455/6.3; 358/84-86, 370/73, 76; 348/1, 12, 13,
15, 17; 375/36

References Cited

U.S. PATENT DOCUMENTS

4,823,386	4/1989	Dumbauld et al.	358/86
4,829,569	5/1989	Seth-Smith et al.	358/86
4,894,789	1/1990	Yee	358/86

OTHER PUBLICATIONS

Descriptive material describing Row-Grabbing System of information retrieval developed by IDR.

Primary Examiner—Reinhard J. Eisenzopf

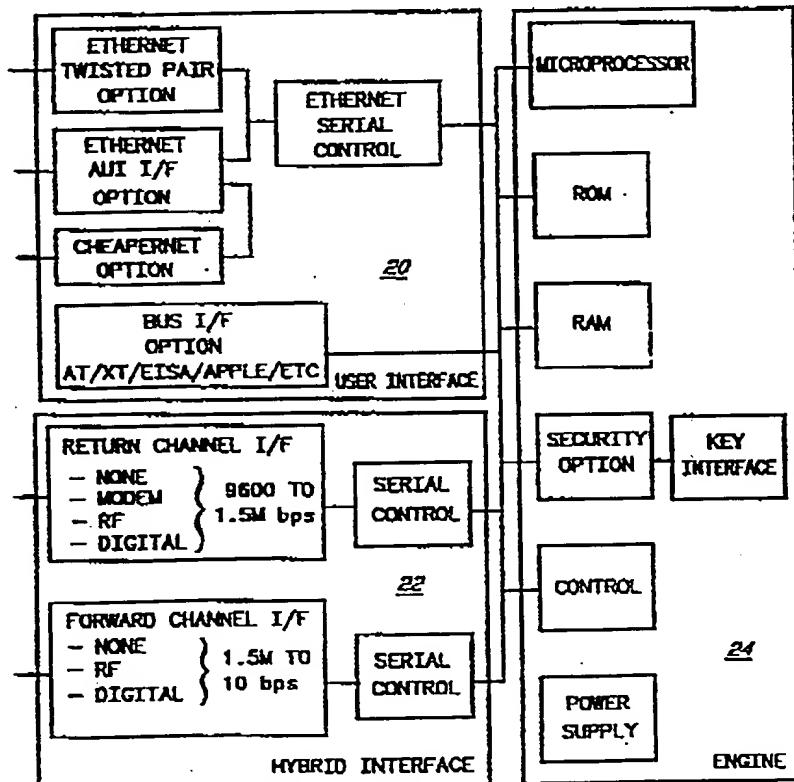
Assistant Examiner—Andrew Faile

Attorney, Agent, or Firm—Townsend and Townsend Khouri and Crew

[57] ABSTRACT

A hybrid transmission system is provided to transmit and receive high-speed digital information in the form of variable length packets using standard television practices and components. The basic building block of this hybrid digital transmission system is the device at the remote location that receives the analog broadcast TV-like signal processed by a standard vestigial sideband video modulator. This device decodes the digital information from the signal and then passes it along as digital information to any form of a data terminal equipment or computer.

9 Claims, 10 Drawing Sheets





US055121A

EXB-B

United States Patent [19]

Moura et al.

[11] Patent Number: 5,586,121

[45] Date of Patent: Dec. 17, 1996

[54] ASYMMETRIC HYBRID ACCESS SYSTEM AND METHOD

5,490,141 2/1996 Lai et al. 370/85.13

[75] Inventors: Eduardo J. Moura, San Joe; Jan M. Gronski, Palo Alto, both of Calif.

0144801A3	6/1985	European Pat. Off.	H04H 1/00
0401873A3	12/1990	European Pat. Off.	H04N 7/087
3312723A1	10/1983	Germany	H04H 1/00
91/06160A	5/1991	WIPO	H04H 1/02

[73] Assignee: Hybrid Networks, Inc., Cupertino, Calif.

[21] Appl. No.: 426,920

[22] Filed: Apr. 21, 1995

[51] Int. Cl.⁶ H04J 3/16[52] U.S. Cl. 370/404; 379/202; 455/5.1;
348/12; 370/276; 370/312; 370/412; 370/463;
370/478[58] Field of Search 370/95.2, 94.1,
370/85.13, 60, 61, 37, 24, 79, 94.2; 379/96,
97, 98, 105, 202; 455/5.1; 348/12, 13

[56] References Cited

U.S. PATENT DOCUMENTS

4,499,568	2/1985	Gremillet	379/96
4,538,174	8/1985	Gargini et al.	358/86
4,623,920	11/1986	Dufresme et al.	358/122
4,684,981	8/1987	Toyoshima et al.	358/86
4,823,386	4/1989	Dumbauld et al.	380/13
4,829,569	5/1989	Seth-Smith et al.	380/10
4,894,789	1/1990	Yee	364/521
4,928,177	5/1990	Martinez	358/142
4,987,486	1/1991	Johnson et al.	358/86
5,014,125	5/1991	Pocock et al.	358/86
5,051,822	9/1991	Rhoades	358/86
5,093,718	3/1992	Hoarty et al.	358/84
5,142,690	8/1992	McMullan, Jr. et al.	370/95.2
5,181,107	1/1993	Rhoades	358/86
5,200,993	4/1993	Wheeler et al.	379/96
5,247,347	9/1993	Littoral et al.	358/85
5,327,554	7/1994	Palazzi, III et al.	379/96
5,347,304	9/1994	Moura et al.	348/5.1
5,450,123	9/1995	Smith	379/96

FOREIGN PATENT DOCUMENTS

Primary Examiner—Douglas W. Olms

Assistant Examiner—Shick Hom

Attorney, Agent, or Firm—Cushman Darby & Cushman; IP Group of Pillsbury Madison & Sutro LLP

[57]

ABSTRACT

An asymmetric network communication system for use in a client-server environment having independent forward and return channels operating at different speeds and/or under different protocols on the same or different communication media to provide efficient utilization of shared resources. A network manager, such as a hybrid access system, effects transmission of packetized data on a forward (downstream) channel from the host server to multiple client devices coupled with a shared downstream media at 10 or more megabits per second while simultaneously providing selectable multiple lower speeds of operation on shared or dedicated return (upstream) channels from the client devices to the host server depending on bandwidth availability, bandwidth demand, service level authorization, etc. for the return channel. Forward and return channels may be located on the same or different communication medium including a CATV network, direct broadcast satellite network, television or radio RF broadcast network, wireless or mobile cellular facilities or the like. The return channel may reside on a PSTN either directly coupled with the host server or connected with the network manager for subsequent transmission to the host server. The network manager handles or controls the forward and return communication to establish interactive full-duplex real-time network sessions between the host and a selected client device.

61 Claims, 20 Drawing Sheets

